

Notice of Allowability

Application No.

10/069,540

Examiner

Tekchand Saidha

Applicant(s)

PRENDERGAST ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18 June 2004.
2. ☒ The allowed claim(s) is/are 1,28,29,32 and 52.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

NOTICE OF ALLOWABILITY

1. Applicants' amendment filed June 18, 2004, is acknowledged.
2. Claims **1, 28-29, 31-32, 43, 49 & 52** are pending.
3. Claims 2-27, 30, 33-42, 44-48, 50-51 & 53-56 are cancelled as per the amendment of June 18, 2004, and the latest version of the listing of claims.
4. **Claims 1, 28-29, 32 and 52 are allowed**, subject to the following Examiner's amendment.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mary Bak on July 13, 2004.

Cancel claims 31, 43 & 49 without prejudice.

Amend claims as follows :

Claim 28, line 7, after (a), delete 'an analog or homolog of SEQ ID NO: 2', and replace with "amino acid sequence of SEQ ID NO: 2 with conservative amino acid substitution thereof".

Claim 52, lines 1-2, after 'A composition comprising', delete 'an effective amount of'.

Claims 52, line 2, after 'claim 1', insert 'or claim 28'.

Art Unit: 1652

5. The following is an examiner's statement of reasons for allowance:

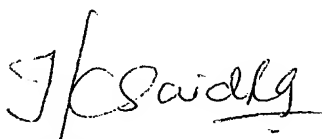
In view of Applicants' amendment to the claims and further consideration of Applicants arguments, all prior rejections are hereby withdrawn. The instant claims are drawn to a specific Bin2 polypeptide of SEQ ID NO: 2 with conservative amino acid substitution thereof, which is patentable and unobvious for reasons of record.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha (Ph.D.) whose telephone number is (571) 272-0940. The examiner can normally be reached on Monday-Friday from 8:15 am to 4:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group in the Technology Center is 703 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 571 272-1600.



Tekchand Saidha
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July 14, 2004